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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,123	03/28/2001	Thomas M. Sirhall	P5710 (SMQ-059)	2140
959	7590	04/23/2004	EXAMINER	
LAHIVE & COCKFIELD, LLP. 28 STATE STREET BOSTON, MA 02109			HARRIS, CHANDA L	
			ART UNIT	PAPER NUMBER
			3714	
DATE MAILED: 04/23/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/820,123	Applicant(s) SIRHALL, THOMAS M.	
	Examiner Chanda L. Harris	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-8 and 11-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-8 and 11-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

In response to the amendment filed 3/30/04, Claims 6-8 and 11-13 are pending. Claims 1-5, 9-10, and 14-22 are cancelled.

Allowable Subject Matter

The indicated allowability of claims 6-8 and 11-13 is withdrawn in view of reconsideration of the reference to Walker et al. (US 5,947,747). Rejections based on the reference(s) follow.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fields et al. (US 6,347,943) in view of Walker (US 5,947,747).

1. [Claim 6]: Regarding Claim 6, Fields discloses receiving a request for a Web page (i.e. HTML document) from a remote client. See Col.7: 46-50. Fields discloses in response to said receiving step, sending a Web page (i.e. assessment page) containing a fill-in-the- blank question. See Col.2: 39-42. Fields does not disclose expressly an

applet. Instead, Fields discloses the use of HTML page types. See Col.6: 11-14. Moreover, he teaches the EPSS being accessible from an applet viewer (Col.4: 20-23), thus making Fields' invention capable of being implemented by the use of applets.

Fields does not disclose expressly a wherein an applet includes a definition file, which is unavailable to the user, defining a correct answer to a question such that the definition file is separate from a source code for said Web page to prevent a user from obtaining the correct answer by viewing the source code. However, Walker teaches the concept of storing an answer key separately from test questions being presented to a user in Col.16: 59-Col.17: 15. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate storing an answer key separately from test questions being presented to a user into the method and system of Fields, in light of the teaching of Walker, in order to keep test answers confidential.

2. [Claim 7]: Regarding Claim 7, Fields discloses wherein said Web page comprises a page (i.e. HTML page type) of an on-line educational course. See Col.6: 9-11.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Fields/Walker as applied to claim 6 above, and further in view of Bolton, page 6.

[Claim 8]: Regarding Claim 8, Fields/Walker does not disclose expressly wherein said Web page includes an applet tag instructing a browser to execute instructions for running the fill-in-the-blank applet. However, Bolton teaches an applet tag (i.e. APPLET CODE) on page 6. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate wherein said Web page includes an

applet tag into the method and system of Fields/Walker, in light of the teaching Bolton, in order to provide the code for implementing the fill-in-the-blank applet.

Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bolton in view of Walker.

1. [Claim 11]: Regarding Claim 11, Bolton discloses instructions for running a fill-in-the-blank applet for displaying a question and a text box to a user, wherein the user can enter an answer to the question in the textbox, the medium including hypertext markup language (HTML) code and a reference to the applet (i.e. APPLET CODE). See pp.3-6. Bolton's invention is capable of using HTML code that includes the question.

Bolton does not disclose expressly a definition file, unavailable to the user, indicating a correct answer for said question, said definition file being separate from the HTML code to prevent the user from obtaining the correct answer by looking at the HTML code. Though, one cannot obtain the correct answer by looking at the source code of Bolton on p.6. However, Walker teaches the concept of storing an answer key separately from test questions being presented to a user in Col.16: 59-Col.17: 15. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate storing an answer key separately from test questions being presented to a user into the method and system of Fields, in light of the teaching of Walker, in order to keep test answers confidential.

2. [Claim 13]: Regarding Claim 13, Bolton/Walker does not disclose expressly

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wherein instructions are stored on a server and downloaded to a local processor of the user. However, storing instructions on a server and downloading them to a local processor of the user is old and well-known in the art. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into the method and system of Bolton/Walker in order to enable a faster response time over the network.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bolton/Walker as applied to claim 11 above, and further in view of Fields.

[Claim 12]: Regarding Claim 12, Bolton/Walker does not disclose expressly wherein the instructions are executable on a virtual machine. However, Fields teaches such in Col.4: 17-20. Therefore, it would have been obvious to one of ordinary skill in the art to incorporate instructions that are executable on a virtual machine into the method and system of Bolton/Walker, in light of the teaching of Fields, in order to enable platform-independent execution of Java programs.

Citation of Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Arnold et al. (US 4,895,518)
 - answer key stored in computer memory

Response to Arguments

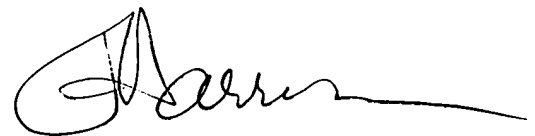
Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection. Therefore, this action is made NON-FINAL.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 703-308-8358. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JESSICA HARRISON
PRIMARY EXAMINER